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EPA Rule Loosened After Oil Chief's Letter to Rove

The White House says the executive's appeal had no role in changing a measure to protect groundwater. Critics call it a political payoff.

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WASHINGTON — A rule designed by the Environmental Protection Agency to keep groundwater clean near oil drilling sites and other construction zones was loosened after White House officials rejected it amid complaints by energy companies that it was too restrictive and after a well-connected Texas oil executive appealed to White House senior advisor Karl Rove.

The new rule, which took effect Monday, came after years of intense industry pressure, including court battles and behind-the-scenes agency lobbying. But environmentalists vowed Monday that the fight was not over, distributing internal White House documents that they said portrayed the new rule as a political payoff to an industry long aligned with the Republican Party and President Bush.

In 2002, a Texas oilman and longtime Republican activist, Ernest Angelo, wrote a letter to Rove complaining that an early version of the rule was causing many in the oil industry to "openly express doubt as to the merit of electing Republicans when we wind up with this type of stupidity."

Rove responded by forwarding the letter to top White House environmental advisors and scrawling a handwritten note directing an aide to talk to those advisors and "get a response ASAP."

Rove later wrote to Angelo, assuring him that there was a "keen awareness" within the administration of addressing not only environmental issues but also the "economic, energy and small business impacts" of the rule.

Environmentalists pointed to the Rove correspondence as evidence that the Bush White House, more than others, has mixed politics with policy decisions that are traditionally left to scientists and career regulators. At the time, Rove oversaw the White House political office and was directing strategy for the 2002 midterm elections.

Angelo had been mayor of Midland, Texas, when Bush ran an oil firm there. He is also a longtime hunting partner of Rove's. The two men first worked together when Angelo managed Ronald Reagan's 1980 presidential campaign in Texas.

In an interview Monday, Angelo welcomed the new groundwater rule and said his letter might have made a difference in how it was written. But he waved off environmentalists'

questions about Rove's involvement.

"I'm sure that his forwarding my letter to people that were in charge of it might have had some impression on them," Angelo said. "It seems to me that it was a totally proper thing to do. I can't see why anybody's upset about it, except of course that it was effective."

Asked why he wrote to Rove and not the Environmental Protection Agency or to some other official more directly associated with the matter, Angelo replied: "Karl and I have been close friends for 25 years. So, why wouldn't I write to him? He's the guy I know best in the administration."

White House spokesmen said Monday that the rule was revised as part of the federal government's standard rule-making process. They said the EPA was simply directed by White House budget officials to make the rule comply with requirements laid out by Congress in a sweeping new energy law passed last year.

The issue has been a focus of lobbying by the oil and gas industry for years, ever since Clinton administration regulators first announced their intent to require special EPA permits for construction sites smaller than five acres, including oil and gas drilling sites, as a way to discourage water pollution.

Energy executives, who have long complained of being stifled by federal regulations limiting drilling and exploration, sought and received a delay in that permit requirement in 2003. Eventually, Congress granted a permanent exemption that was written into the 2005 energy legislation.

The EPA rule issued Monday adds fine print to that broad exception in ways that critics, including six members of the Senate, say exceeds what Congress intended.

For example, the new rule generally exempts sediment — pieces of dirt and other particles that can gum up otherwise clear streams — from regulations governing runoff that may flow from oil and gas production or construction sites.

Sen. James M. Jeffords (I-Vt.), who joined five Democrats in objecting to the rule, wrote in March that there was nothing in the energy law suggesting that such an exclusion of sediment "had even entered the mind of any member of Congress as it considered the Energy Policy Act of 2005." Moreover, Jeffords wrote, the rule violated the intentions of Congress when it passed the Clean Water Act 19 years ago.

White House and administration officials disagreed.

At the EPA, Assistant Administrator Benjamin H. Grumbles said the rule responded directly to congressional action. He cited a letter from Sen. James M. Inhofe (R-Okla.), chairman of the Senate Environment and Public Works Committee, endorsing it. He added that the rule still allows states to regulate pollution, and that it continues to regulate sediment that contains "toxic" ingredients.

Lisa Miller, a spokeswoman for another senior lawmaker, Rep. Joe L. Barton (R-Texas), chairman of the House Energy and Commerce Committee, said Monday that the rule was designed to hold oil companies accountable for putting toxic substances in the soil, but not for dirt that results from storms.

"When it rains, storm water gets muddy, regardless of whether there's an oil well in the neighborhood," Miller said. "Congress told EPA to do this, and now they have. If there's oil in the water, a producer has to clean it up. If it's nature, they don't."

The change in the rule occurred last year when staffers in the White House Office of Management and Budget began editing an early version drafted by EPA technical staff. The Office of Management and Budget oversees another division, the Office of Information and Regulatory Policy, which critics complain has served as a central hub in the Bush White House for making government regulations more business-friendly.

A spokesman for the White House budget office, Scott Milburn, said Monday that the White House's involvement in making rules was intended to "ensure that agencies issue regulations that follow the law."

White House spokeswoman Dana Perino rejected the suggestion that Rove was involved in the rule change. Rove frequently receives requests, she said, and that he tries to reply and direct those requests to the appropriate people. She said that for environmentalists to accuse Rove of manipulating the EPA rule was a "typical overreach" by administration critics.

"That is quite an overreach, when it was the United States Congress that passed the Energy Act in a bipartisan way to ask the EPA to undertake this rulemaking," she said.

In their March letter, Jeffords and his Democratic colleagues asked EPA officials whether the correspondence with Rove influenced the final rule.

A response written by Grumbles did not directly address the Rove question. But the Natural Resources Defense Council and other environmental groups assert that they know the answer.

"We can't say that Karl Rove walked over to OMB and demanded these changes," said Sharon Buccino, director of the Natural Resources Defense Council's land program. "But it is clear that there was direction coming from the top of the White House, and this was a result of the thinking of the White House as opposed to environmental experts at EPA."

Buccino called the rule "yet another example of the Bush administration rewarding their friends in the oil and gas industry at the expense of the environment and the public's health."

In his letter to Rove, Angelo did not hide his political feelings. He thanked Rove for "all

you do," and added words of encouragement on another topic: "The president has the opposition on the run on the Iraq issue."

His letter appeared to gain notice at the highest levels of the administration. Three months after Angelo sent it, a top EPA official wrote to tell him that the agency had decided to impose the temporary delay on the construction permitting rule for oil and gas companies.

The letter was copied to Rove, White House environmental advisor James L. Connaughton and then-EPA Administrator Christine Todd Whitman.